

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

G3

FEB 12 2004

FILE:

Office: LOS ANGELES

Date:

IN RE:

Obligor:

Bonded Alien

IMMIGRATION BOND:

Bond Conditioned for the Voluntary Departure under § 240B of the
Immigration and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson
for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on February 7, 2000, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated February 2, 2000, was issued granting the alien voluntary departure in lieu of removal on or before April 3, 2000. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On February 7, 2002, the BIA affirmed the IJ's decision. On March 8, 2002, the alien filed a motion to reconsider. On April 19, 2002, the BIA denied the alien's motion to reconsider. On July 18, 2002, the alien filed a motion to reopen. On November 7, 2002, the BIA denied the alien's motion to reopen as untimely. The alien subsequently filed a motion to reconsider. On March 28, 2003, the BIA denied the alien's motion to reconsider. On July 23, 2003, the district director concluded the bond had been breached. The alien has failed to depart.

On appeal, counsel asserts that the alien has an appeal before the 9th Circuit Court of Appeals that is currently pending.

The record reflects that on April 25, 2003, the alien petitioned the 9th Circuit Court of Appeals for review of the BIA's decision dated March 28, 2003.

An appeal to the federal court of appeals does not stay the execution of the removal order unless the court orders otherwise. Section 242(b)(3)(B) of the Immigration and Nationality Act (the Act) 8 U.S.C. § 1252(b)(3)(B). There is no evidence of record to indicate that the 9th Circuit Court of Appeals has stayed the bonded alien's removal.

8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be canceled, the alien must provide proof of departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for ICE to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field director will not be disturbed.

ORDER: The appeal is dismissed.